IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO. 166 OF 2007

Gerald Paul D'Mello .. Petitioner

Vs.

The Mumbai Municipal Corporation
of Greater Mumbai & Ors. .. Respondents

Mr.R.A.Thorat a/w Mr.E.A.Gonsalves for the petitioner

Mrs.A.K.Savla for the respondents

CORAM : J.N.PATEL &
S.C.DHARMADHIKARI, JJ.

DATED : 7TH FEBRUARY, 2007

P.C.:

1. Heard the learned counsel for the parties.

2. We propose to dispose of this petition at the stage of admission itself. The petitioner has approached this court impugning the notice issued to the petitioner under section 53(1) of the Maharashtra Regional & Town Planning Act, 1966 for carrying out addition and alteration as specified in the notice without taking due permission from the Municipal Corporation.

3. It is the case of the petitioner that the petitioner has only carried out necessary repairs of which permission was obtained, which prima facie did not appear to be so.

4. The learned counsel for the petitioner submits that if the addition and alteration does not violate the building regulations and bye laws and D.C. (Control) Rules, the petitioner can apply for regularisation of the addition and alteration which is the subject matter of the notice and therefore, the respondent Corporation should not act on the notice to enable the petitioner to apply for regularisation of the addition and alteration carried out by the petitioner.

5. In our view, considering the nature of deviation in the repairs carried out by the petitioner and as specified in the impugned notice, an opportunity can be given to the petitioner to apply to the Municipal Corporation by submitting a proposal for regularisation of the addition and alteration carried out by the petitioner under the garb of the repair permission.

6. The learned counsel for the petitioner submits that he would forward a proposal alongwith a plan to the Municipal Corporation within a period of 2 weeks. On receipt of such proposal, the Municipal Corporation to take a decision in the matter within a period of 6 weeks. Till then, the Municipal Corporation would not act on the impugned notice.

7. We make it clear that in case the Municipal Corporation does not approve the proposal for regularisation of the addition and alteration carried out by the petitioner, they will not act on the notice for a period of 4 weeks from the date of communication of the decision to enable the petitioner to approach appropriate authority. Till the respondent corporation takes a decision in the matter, the petitioner would not proceed with any further addition and alteration to the structure in question.

8. Petition stands disposed of accordingly.

(SHRI J.N. PATEL, J)

(SHRI S.C.DHARMADHIKARI, J)